IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1441 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

NAJUBHAI D VALA

Appearance:

MR.KG SHETH, ASSISTANT PUBLIC PROSECUTOR for Petitioners

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 25/02/2000

ORAL JUDGEMENT

One Shri Najubhai D.Vala, respondent herein, filed a criminal complaint in the Court of JMFC, Jasdan (Complaint No.156/90) against the Superintending Engineer, Irrigation Circle, Rajkot, Executive Engineer

and Deputy Executive Engineer, Shri Ishwaria Irrigation Project alleging that they had committed offence punishable under sections 420, 380 and 409 read with sections 34 and 114 IPC. The respondent was social worker and was actively engaged in social work. In the complaint he alleged that there has been gross scandal and corruption in the execution of the Ishwaria Irrigation Project which has been inaugurated by the Irrigation Minister Shri Amarsinh Chaudhari on 9.5.1982. He alleged that the officers involved in this project had been involved in corruption to the extent of lacs of rupees and had been guilty of unpardonable negligence. It was alleged that Compensation had not been paid to many land owners whose land had been submerged. He also made other allegations of defects in construction and use of sub-standard materials. He alleged that the officers had misappropriated the public money. The learned Magistrate after recording the statement of the respondent issued bailable warrant for the offence punishable under sections 420,, 380 and 409 read with sections 34 and 114 of IPC.

The officers who had been cited as accused in the complaint not by name but by designation have thereupon filed this Special Criminal Application through State of Gujarat for setting aside the order of the Magistrate and quashing the said complaint.

Though the respondent who is the original complainant has been served he has chosen not to enter his appearance. The learned APP Shri K.G.Sheth took me through the complaint and submitted that only vague allegations of general nature have been made in the complaint. It is clear that the complaint is of a vague nature and it is in the nature of an application for robing and fishing inquiry in the hope that some irregularities in the construction of the Dam will be revealed. In my opinion the learned Magistrate issued process without applying his mind to the contents of the complaint and he committed error in issuing the process for the alleged offence. The impugned order of the learned Magistrate is therefore set aside and the criminal complaint no.156/90 on the file of the JMFC, Jasdan is quashed. Rule made absolute accordingly.

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m.m.bhatt